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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 In Re: Case No. 25-10088 WJL
14 Kingsborough Atlas Tree Surgery, Inc. Chapter 11
15 Debtor. MOTION FOR AUTHORITY TO SELL
16 PERSONAL PROPERTY BY AUCTION
17 _____/

18 Kingsborough Atlas Tree Surgery, Inc. (“Debtor”) hereby moves for authority to sell
19 personal property by auction pursuant to 11 USC § 363(b)
20

21 SUMMARY OF RELIEF REQUESTED

22 1. This Motion seeks authority to sell by auction Debtor’s titled/certificated assets and
23 from the proceeds pay the lenders that are secured by the assets to be sold, with the balance of the
24 sale proceeds paid to the estate.
25

26 JURISDICTION AND VENUE

27 2. On February 20, 2025, an order for relief under Chapter 11 of Title 11 of the United
28 States Code was entered herein. Debtor is a debtor-in-possession.

29 3. This Court has subject matter jurisdiction over this matter pursuant to the provisions of
30 28 U.S.C. §§ 1334(b) and 157(b)(2)(A), (M), and (O), 11 U.S.C. § 363. Venue is proper here
31 pursuant to the provisions of 28 U.S.C. § 1409.

1 THE AUCTION SALE

2 A. Terms of Auction Sale

3 4. When the Chapter 11 was filed, Debtor estimated the value of its titled/certificated
4 trucks and trailers to be in the range of 1.5 to 2.0 million dollars. This total has been reduced by
5 the assets that have been sold with court approval and the assets that were recovered and
6 liquidated by First Financial Holdings. The remaining titled/certificated trucks and trailers are
7 scheduled in Exhibit A.
8

9 5. On July 21, 2025, an order was entered appointing Grafe Auction and Dudley
10 Resources (“Grafe”) as online auctioneer to evaluate and liquidate property of the estate. Grafe
11 has agreed to market and sell various pieces of equipment on behalf of Debtor for a commission
12 of 7.5 % of the sale price, exclusive of sales tax. Grafe will also be paid by the purchasers of the
13 equipment an industry-standard buyer’s premium of 15%. At the conclusion of the auction sale,
14 Grafe will also be paid \$62,500 for pre-auction tag/catalog/photography and sale catalog
15 creation, advertising and marketing and post-auction management for this sale as well as the sale
16 of the non-titled assets.
17
18

19 6. There is to be a floor or minimum on equipment that is collateral for titled/certificated
20 trucks and trailers that are subject to the security interests held by various lenders such that the
21 secured lenders must be paid in full for the asset being sold unless the secured lender agrees to a
22 different treatment.
23

24 B. Proceeds of Sale

25 7. The proceeds from the sale of the titled or certificated vehicles will be paid to Ford,
26 and any other lender that is secured by titled or certificated vehicles, with the balance of the sale
27 proceeds to be paid to Debtor.
28

1 C. The Sale Is in the Best Interest of the Estate

2 8. 11 U.S.C. Section 363(b) authorizes a debtor in possession to sell property of the
3 Estate outside the ordinary course of business after notice and hearing. Pursuant to FRBP
4 6004(f)(1), this sale may be conducted by either private sale or public auction. "The court's
5 obligation in Section 363(b) sales is to assure that optimal value is realized by the estate under
6 the circumstances. The requirement of a notice and a hearing operates to provide both a means of
7 objecting and a method for attracting interest by prospective purchasers. Ordinarily, Bankruptcy
8 courts typically review a transaction proposed under section 363(b)(1) using a "business
9 judgment" standard. *In re Equity Funding Corp. of Am.*, 519 F.2d 1274, 1277 (9th Cir. 1975).
10 This is a "deferential" standard pursuant to which a "bankruptcy court will generally approve" a
11 reasoned decision by the debtor. *Mission Prod. Holdings v. Tempnology, LLC* 139 S. Ct. 1652
12 at 1658.

13
14
15 9. There appears to be a significant amount of equity in the assets to be sold that will best
16 be realized from an auction sale. If the unsecured creditors are to benefit from the sale of the
17 titled/certificated trucks and trailers, the assets must be sold in an orderly manner as quickly as
18 possible.
19

20 WHEREFORE, Debtor prays for an order authorizing the sale of the titled/certificated
21 trucks and trailers on the terms set forth above, and for such other and further relief as the court
22 deems proper.
23

24
25 Dated: August 14, 2025

/s/ Michael C. Fallon

Michael C. Fallon
Attorney for Debtor